

^{40/} The WB, like any new network, is thus starting its network life in the red.

The establishment of a new network as a profitable entity will depend in large measure upon the life blood of any national network -- its primary affiliates. Accordingly, if The WB is to survive, let alone flourish, it must be allowed to compete for affiliates *now* in communities in which it has none. The Freeze Order works directly against the emergence of this new network competitor. Expeditious action on the part of the Commission is needed, therefore, to allow the construction of new television stations that are potential WB affiliates. Granting the Freeze Order waiver is a necessary step to achieving this end -- both in general and for Pappas in particular.

CONCLUSION

For all of the foregoing reasons, the Petitioner asks the Commission to grant a waiver of its Freeze Order. Indeed, in order to make opportunities available for these new potential affiliates at the earliest possible time, the

^{40/} *New Players* at 30.

Petitioner also respectfully requests that the Commission rule on this Petition expeditiously.

LIEBERMAN & WALISKO
CONSULTING TELECOMMUNICATIONS ENGINEERS
11403 GILSAN ST.
SILVER SPRING, MD 20902

NEW - Boynton Beach, Florida

PETITION FOR RULEMAKING

This is a request to amend the Television Table of Assignments to add channel 15 (0 offset) to Boynton Beach, Florida.

The instant proposed channel does not meet the criteria set forth in Section §73.610 of the rules or Section §73.698 of the rules. However, as will be demonstrated herein, the channels can be accommodated to bring a first local television service to the city of Boynton Beach, Florida.

Exhibit I is an allocation study for channel 15 using a proposed and known antenna site. The study exhibits short spacing to the following assignments.

New Smyrna Beach, Florida

Television Channel 15+

West Palm Beach, Florida

Television Channel 29+

The instant proposed channel is physically short spaced to the above referenced channel 15+ assignment by 48.4 kilometers in contravention of Section §73.610 of the rules and is short spaced to the above referenced channel 29+ assignment by 95.7 kilometers in contravention of Section §73.698 of the rules.

The instant proposal requests the assignment of Channel 15 (0 offset) to Boynton Beach, Florida under the umbrella of Equivalent Distance Protection (EDP). EDP sought herein has been employed by the Commission in the past. A case in point is, (1) WHYI-TV, Wilmington, Delaware, BPCT-4290 in 1970 and (2) RM-2018 in 1980

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PETITION FOR RULEMAKING (Cont'd)

which provided additional channels of television to Johnstown, PA, Charleston, West Virginia, Knoxville, Tennessee, and Salt Lake City, Utah.

The idea of EDP is based upon the assumption that a proposed station must provide the same ratio of desired-to-undesired signal to the existing station that would be present were the two stations fully spaced. The formula used by the Commission in the past assumes that the protected station is operating at full facilities - maximum height and maximum power.

The instant proposal has determined that channel 15 (0 offset) can operate at Boynton Beach if the proposed channel were to suppress its radiation toward New Smyrna Beach to a maximum of 39.95 kW at a bearing of N 303° E. A directional antenna judiciously designed can provide the requisite protection to New Smyrna Beach while providing an effective radiated power of 1200 kilowatts over the city of license and the attendant service area.

An accompanying contingent application filed contemporaneously with this petition exhibits just such a proposal and fully protects the New Smyrna Beach assignment on a ratio of 64 dBu f(50,50) to 36 dBu f(50,10) and reversed. Thus both New Smyrna Beach and the instant proposed operation will cause no interference to or accept interference from one another.

As stated earlier, the instant proposal is also in contravention of Section §73.698 of the rules in that it is not spaced 95.7 kilometers from channel 29+.

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11403 GILSAN ST.
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PETITION FOR RULEMAKING (Cont'd)

It is the petitioners contention that if the instant proposed assignment were co-located with channel 29, no interference would in fact be created.

Looking at the history of Section §73.698, the prohibitions were created in order to afford protections based upon the mixing of multiple signals in an area that would conceivably disturb the received picture in a television receiver. In actuality, the prohibitions were created to deal with the characteristics of the television receivers available at that time. Compared to today's television receiver technology, the television receivers of thirty years ago left a lot to be desired. The prohibitions of Section §73.698 was designed to deal with those deficiencies.

In 1996, however, such is not the case. Modern television receiver technology relies on electronic tuning using very large scale integrated circuits, varactors, and oscillators that are completely shielded. Thus the need to protect the public from the anomalies present in the 1970's is not present today.

The staff of the Commission has done studies regarding the prohibitions and have concluded that UHF receivers today operate with little or no effect from the prohibited channels - very much like the VHF channels do. A study entitled A Study of UHF Television Receiver Interference Immunities by Hector Davis, FCC/OET, in 1987 indicates that the time has arrived for relieving the broadcaster from Section §73.698.

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PETITION FOR RULEMAKING (Cont'd)

In low power television, accommodation is made to deal with channels sought by low power broadcasters that fall in the window of Section §73.698. In that regard, where the two assignments in question are separated by 14 channels, as is the case in the instant petition, maintaining a power level of no less than 23 dB as required by the rules will eliminate the need for a physical separation of transmitters as required in Section §73.698.

Such is the case in the instant petition. The proposal calls for the co-location of the two channels and maintaining power levels that are within 23 dB of each other. The application filed concurrent with this Petition proposes co-location with channel 29+ and operation at a power level that will eliminate, if it is even present, any sound image that may result.

The petitioner requests, therefore, that Section §73.610 - Television Table of Assignments - be amended as follows:

<u>City</u>	<u>Present</u>	<u>Proposed</u>
Boynton Beach, FL	None	*15+

*NOTE: Any application for this assignment shall make a showing that it is protecting Channel 15(0) at New Smyrna Beach, Florida to its 64 dBu f(50,50) contour from the proposed 36 dBu f(50,10) contour and reverse.

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PETITION FOR RULEMAKING (Cont'd)

Any application for this assignment shall make a showing that a proposed operation on channel 15(0) shall be operated within 23 dB of the power level of channel 29+ assigned to West Palm Beach, Florida.

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NEW - Boynton Beach, Florida

EXHIBIT I

TV CHANNEL SPACING STUDY

Title: BOYNTON BEACH, FL
Channel: 15

Latitude: 26 34 37
Longitude: 80 14 32

CH	Call.	City	ST	Z	STS	Bear.	Dist.	Reqd. Dist.	Result
14o	LANDMB	MIAMI	FL	0		176.8	88.8	87.7	1.1
17-	WLRN	MIAMI	FL	3	L	177.5	68.6	31.4	
23-	WLTU	MIAMI	FL	3	L	177.5	68.6	31.4	
23-	WLTU	MIAMI	FL	3	C	178.3	67.4	31.4	
29+	WFLX	WEST PALM BEACH	FL	3	L	.0	.0	95.7	-95.7
30o	WSFTU	FORT MYERS	FL	3	L	280.3	153.6	119.9	
15+	WCEU	NEW SMYRNA BEACH	FL	3	C	338.1	280.6	329.0	-48.4
15+	WCEU	NEW SMYRNA BEACH	FL	3	L	342.9	301.5	329.0	-27.5

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DECLARATION

MELVYN LIEBERMAN, declares and certifies as follows:

That he is associated with the firm of **LIEBERMAN & WALISKO, Inc.**;

That this firm has been retained by **Pappas Telecasting of America, L.P.** to prepare this Engineering Statement;

That his qualifications are a matter of record with the Federal Communications Commission;

That he has either prepared or directly supervised the preparation of all technical material contained in this engineering statement and that the facts stated in this report are true of his knowledge and belief except as to such statements as are herein stated to be on information and belief and as to such statements, he believes them to be true.

July 18, 1996
Date

Melvyn Lieberman
Melvyn Lieberman

CERTIFICATE OF SERVICE

Nadine Smith-Garrett, a secretary in the law firm of Paul, Hastings, Janofsky & Walker, hereby certifies that she has, on this 24th day of July, 1996, caused copies of the foregoing **PETITION FOR RULE MAKING** to be mailed by first-class mail, postage-prepaid, to the following:

WFLX Limited Partnership
Television Station WFLX (TV)
1660 West Second Street
Cleveland, Ohio 44115-1454

Coastal Educational Broadcasters, Inc.
Television Station WCEU (TV)
Post Office Box 2811
Daytona Beach, Florida 32120-9245


Nadine Smith-Garrett